

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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:
BARTHOLOMEW R. WILLIAMS, :
:
Complainant, :
:
vs. : Case 361
: No. 50822 PP(S)-211
STATE OF WISCONSIN, and UNIVERSITY OF : Decision No. 28208-A
WISCONSIN-MILWAUKEE (UWM), and MILWAUKEE:
GRADUATE ASSISTANTS ASSOCIATION, and :
WISCONSIN FEDERATION OF TEACHERS (WFT), :
and AMERICAN FEDERATION OF :
TEACHERS (AFT), and AMERICAN FEDERATION :
OF LABOR-CONGRESS OF INDUSTRIAL :
ORGANIZATIONS (AFL-CIO), :
:
Respondents. :
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Appearances:

Mr. Bartholomew R. Williams, 6743 Cedar Street, Wauwatosa, Wisconsin
53213-3253, appearing pro se.
Ms. Teel Haas, Department of Employment Relations, 137 East Wilson Street,
Madison, Wisconsin 53707-7855, appearing on behalf of the State of
Wisconsin and the University of Wisconsin-Milwaukee.
Previant, Goldberg, Ulemen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law,
1555 North Rivercenter Drive, Suite 202, Milwaukee, Wisconsin
53212, by Mr. Matthew R. Robbins, appearing on behalf of Wisconsin
State AFL-CIO.
Shneidman, Myers, Dowling & Blumenfield, Attorneys at Law, P.O. Box 442,
Milwaukee, Wisconsin 53201-0442, by Mr. Timothy E. Hawks, appearing
on behalf of Wisconsin Federation of Teachers, American Federation
of Teachers and Milwaukee Graduate Assistants Association.

ORDER DISMISSING RESPONDENTS

On August 17, 1994, the Wisconsin State AFL-CIO filed a Motion To Dismiss, with accompanying brief, requesting that the Wisconsin State AFL-CIO be dismissed as a Respondent in this matter. On October 4, 1994, the Wisconsin Federation of Teachers and the American Federation of Teachers filed a Motion to Dismiss, joining the argument filed by the Wisconsin State AFL-CIO, requesting that the Wisconsin Federation of Teachers and the American Federation of Teachers be dismissed as Respondents in this matter. Also, on October 4, 1994, the Complainant filed a Motion to Not Dismiss, with accompanying brief, requesting that the Wisconsin State AFL-CIO, the Wisconsin Federation of Teachers, and the American Federation of Teachers not be dismissed as Respondents in this matter. Respondents State of Wisconsin and University of Wisconsin-Milwaukee waived thier right to file written argument regarding any and all of these motions.

The Examiner, having reviewed the record and being satisfied that the Motion to Dismiss should be granted and the Motion to Not Dismiss should be denied, issues the following

ORDER

No. 28208-A

1. That Complainant's Motion to Not Dismiss is denied.

2. That Respondents Wisconsin State AFL-CIO, Wisconsin Federation of Teachers, and the American Federation of Teachers are dismissed as Respondents in this case.

Dated at Madison, Wisconsin, this 6th day of December, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James W. Engmann /s/
James W. Engmann, Examiner

Department of Employment Relations

MEMORANDUM ACCOMPANYING ORDER DISMISSING RESPONDENTS

Generally, only a labor organization which is the Complainant's exclusive bargaining representative may be sued for breaching the duty of fair representation. See Walk v. PIE Nationwide, 980 F2d 394, 141 LRRM 2912 (CA 6, 1992). Thus, a state or national union is not ordinarily a party unless it is the employee's bargaining representative or unless the local union was acting for it or at its discretion. Nothing in the record suggests either of these possibilities. So even though the Milwaukee Graduate Assistants Association (MGAA) is affiliated with the Wisconsin State AFL-CIO, the Wisconsin Federation of Teachers, and the American Federation of Teachers, it is the MGAA which is the collective bargaining representative and is subject to the duty of fair representation, and not the state and national unions with which it is affiliated.

For this reason, the Motion to Dismiss these Respondents is granted and Complainant's Motion to Not Dismiss is denied.

If appropriate, further discussion of this matter will be included in the final order in this matter.

Dated at Madison, Wisconsin, this 6th day of December, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James W. Engmann /s/
James W. Engmann, Examiner